

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**KIRBY TATE**

**PLAINTIFF**

**V.**

**NO. 4:08CV073-P-D**

**EARNESTINE STARKS, et al.**

**DEFENDANTS**

**ORDER**

This cause is before the court on Plaintiff's motion to reopen. This matter was initiated on June 6, 2008, pursuant to 42 U.S.C. § 1983. Plaintiff's complaint included claims for, *inter alia*, retaliation and denial of access-to-the-courts for which Plaintiff was seeking monetary damages and equitable relief. Following a motion for summary judgment and motion to dismiss, the Magistrate Judge issued a Report and Recommendation suggesting that judgment should be entered for the Defendants. On March 30, 2009, the court granted summary judgment by adopting the Magistrate Judge's recommendations and closed the case.

Plaintiff has now moved to reopen the case setting for very specific and expansive arguments in opposition to the grant of summary judgment. These same arguments were before the Magistrate Judge when he issued the Report and Recommendation. As before, after reviewing the original pleadings as well as the motions and the applicable law, the court concludes that the March 30, 2009, order was correct in law and fact and that Plaintiff has failed to produce a factual or legal basis to alter the court's ruling. Therefore, Plaintiff's motion to reopen (docket entry 55) is DENIED. The motions for leave to file (docket entries 57 and 58) are DENIED AS MOOT.

**SO ORDERED**, this the 16<sup>th</sup> day of April, 2009.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE